### UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Chris Gregerson	) No.: 10-4974 JRT/JJK
Plaintiff	)
vs.	) COMPLAINT FOR COPYRIGHT
KARE-TV	) INFRINGEMENT
Defendant	)

Plaintiff, Chris Gregerson, in it's complaint against the Defendant, alleges the following:

#### **JURISDICTION AND VENUE**

- This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
- This Court has jurisdiction under 17 U.S.C. § 101 et seq. (copyrights); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
- This Court has personal jurisdiction over the Defendant by virtue of their office of record being located in this District, and their transacting, doing, and soliciting business in this District, and because the relevant events occurred in this District.
- 4 Venue is proper because the defendant or his agent reside or may be found in this judicial district (28 USC § 1400(a)).

#### **PARTIES**

- 5 Plaintiff is a natural person residing at 150 N. Green Ave., New Richmond, WI, 54017.
- Defendant KARE TV is an NBC affiliate with a registered place of business of 8811 Olson Memorial Hwy, Mpls, MN 55427.



#### **FACTS**

- 7 The Plaintiff, a professional photographer by trade, created a photograph of the Minneapolis skyline (during sunny weather conditions and showing traffic on interstate 35W) in May of 2002.
- The Plaintiff has published a version of the photo on his website from July 19<sup>th</sup>, 2002 until the present as image #1756. The photo appears at the web address: <a href="http://www.cgstock.com/1756">http://www.cgstock.com/1756</a> (exhibit A, attached).
- The Plaintiff published the photograph with several features to identify the Plaintiff's copyright ownership of the image:
  - a. The Plaintiff's website address is stamped on the photo (this was "www.phototour.minneapolis.mn.us" in 2002, but Plaintiff began using the address "www.cgstock.com" around 2007);
  - b. A copyright notice reading "(c)Chris Gregerson 2002" is digitallyembedded in the jpeg file's "comment" field;
  - c. A copyright notice appears underneath the photo, along with information about licensing the image;
  - d. A visible copyright notice is stamped on the image itself in the lower-left.
- The Plaintiff obtained a certificate of copyright registration for the photo from the U.S. Copyright Office effective March 4<sup>th</sup>, 2004 (exhibit B, attached). The image part of a bulk registration of all photos created by Chris Gregerson and published in the year 2002 (consistent with requirements for bulk registration of photographs under 37 CFR 202.3(b)(10)). Image #1756 was included in the registration application in digital form on a CD-ROM with the date of publication stamped on the image (see exhibit B, pg. 3).
- The Defendant published the Plaintiff's photo on their website (exhibit C, attached). The same vehicles can be seen driving on the freeway in both images, and they are composed and cropped the same.
- 12 The Defendant published the Plaintiff's photo with several modifications:
  - a. the Plaintiff's website address was removed from the image;
  - b. the Plaintiff's digitally-embedded copyright notice was deleted;
  - c. the Plaintiff's copyright notice does not appear on the image, and no

copyright notice appears identifying the Plaintiff's ownership.

- Upon information and belief, the publication by the defendant of the Plaintiff's photograph #1756 occurred after the Plaintiff was awarded his certificate of copyrighted registration for the image.
- 14 The publication by the defendant of the Plaintiff's photograph #1756 was without the knowledge or consent of the Plaintiff, the exclusive copyright owner. The Plaintiff is the only party or agent authorized to license photos created by the Plaintiff, and he licenses all his photos through his website.
- The Defendant knew they had published the Plaintiff's image without his consent, but made no effort to contact the Plaintiff to obtain a license for their use of the image.
- The Plaintiff subsequently discovered the Defendant's use of his photo by coincidence in 2010, and on December 1<sup>st</sup>, 2010, the Plaintiff contacted the Defendant by email asking the Defendant to itemize their use of his image, identify where they obtained the photo, and state whether they were still using it (exhibit D, attached).
- 17 The Plaintiff did not receive any reply to his email.
- On December 13th, 2010, the Plaintiff sent a letter by regular mail to the Defendant, again asking them to itemize their use, identify their source for the photo, and cease using the image (exhibit E, attached).
- 19 The Plaintiff has not received an answer to his letter.

### CAUSE OF ACTION Copyright Infringement

- 20 Paragraphs 1-19 are incorporated herein by reference.
- Plaintiff has the exclusive right to reproduce, distribute, and publicly display copies of his photograph #1756 (See 17 U.S.C. § 106).
- 22 Plaintiff did not grant defendant any permission or rights to image #1756.
- 23 Defendant published image #1756.
- The defendant has infringed on the Plaintiff's copyright to photograph #1756.
- The defendant removed the Plaintiff's copyright management information from photographs #1756 and/or knowingly distributed the photo with the copyright

management information removed (See 17 U.S.C. § 1202(b)(1) and (3)).

#### PRAYER FOR RELIEF

THEREFORE, Plaintiff prays for judgment against the defendant(s) as follows:

- Declaring that Defendants' unauthorized conduct violates Plaintiffs' rights A under the Federal Copyright Act;
- Immediately and permanently enjoining Defendants from publishing any of В Plaintiffs' copyrighted photographs;
- Awarding Plaintiff statutory damages of up to \$150,000 for Defendant's willful  $\mathbf{C}$ infringement of Plaintiff's copyright to image #1756 pursuant to 17 U.S.C. § 504(c)(2);
- Awarding Plaintiff the statutory damages of \$25,000 under 17 U.S.C. §1203(c) D (3)(B) for willful removal of the photo's copyright management information;
- Awarding Plaintiff his costs, reasonable attorneys' fees, and disbursements in E this action, pursuant to 17 U.S.C. § 505; and
- Awarding Plaintiff any further relief as is just and proper. F

Respectfully submitted,

Dated: December 23<sup>rd</sup>, 2010

Chris Gregerson

Plaintiff, pro se 150 N Green Ave.

New Richmond, WI 54017

Telephone: 612-245-4306

### UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Chris Gregerson	) No.:
Plaintiff	
vs.	) EXHIBIT ) LIST
KARE-TV	)
Defendant	) )

#### Exhibit A

Plaintiff's photograph #1756 as it appears on his website

#### Exhibit B

Plaintiff's Certificate of Copyright Registration for #1756

#### Exhibit C

Plaintiff's photo #1756 as published by the Defendants

#### Exhibit D

Plaintiff's December 1st email to Defendant

#### **Exhibit E**

Plaintiff's December 13th letter to Defendant

### **Exhibit A**Plaintiff's photograph #1756 as it appears on his website



Local Coupons 1 ridiculously huge coupon a day. Get 50-90% Phototour of Minneapolis aff your city's best!

Laptops Sold for \$33,33 Today Only: All HP Laptops are Sold for up to 98% Off. Buy Yours Today!

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#### Downtown Minneapolis Skyline (#1756)



this photo is in these categories: reset photo

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make this a favorite view your favorites copyright © 2002 Chris Gregerson. Available format: 4 megapixel (2272 x 1704 total resolution) picture date: 2002-05-20

#### description

You are looking north at the downtown Minneapolis skyline. The freeway in the foreground is Interstate 35W. Some of the buildings pictured (left to right) are:

- AT&T Tower (frayed looking top on the left, in front of the IDS Tower)
- . IDS Tower (tall, blue building on the left)
- · Foshay Tower (off-white stone building resembling the Washington Monument)
- · Wells Fargo Tower (cream skyscraper)
- · Piper Jaffray Tower (with flat blue reflective sides)
- · American Express building
- · US Bank Place (skyscraper with a crown right of center)
- · Pillsbury Tower (white)
- · Andersen Consulting
- · Hennepin County Government Center

#### links

#### purchase a print of this photo online

- City of Minneapolis homepage http://www.ci.minneapolis.mn.us/
- · Minneapolis Downtown Council's website http://www.downtownmpls.com/
- · Map of Downtown Minneapolts Skyway System http://www.minneapolis.org/pages/visitors/lowtechmap.asp
- Map of Downtown Minneapolis from the GMCVA http://www.minneapolis.org/pages/visitors/maps.asp
- · City of Minneapolis Maps, from the City's Website Links to five quality maps(in .pdf format) http://www.ci.minneapolis.mn.us/about/maps/index.html

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- 1975 Photo of the Minneapolis skyline from Cedar Avenue and I-94 http://collections.mnhs.org/VisualResources/VRDBImages/pf020/pf020833, ipg
- 1982 Photo of the Hubert H. Humphrey Metrodome, Looking Northwest <u>http://collections.mnhs.org/VisualResources/VRDBImages/pf028/pf028774.</u>
   ipg
- 1975 Photo of the Downtown Skyline(IDS and Foshay) Overlooking Loring Park http://collections.mnhs.org/VisualResources/VRDB/mages/pf013/pf013720.
- 1975 View of the Skyline from the Walker Art Center Terrace http://collections.mnhs.org/VisualResources/VRDBImages/pf020/pf020827. ipg

#### comments

• Howard Mitchell Boulder, Colorado -- 2005-06-13

Lappreciate these photos of my favorite city. Its really cool to be able to access Minneapolis from Boulder. Im looking forward to it. Your Hebrew Homeboy, Howard. (Chamad).

• Darrell Reich Las Vegas, Nv. -- 2006-10-21

Heft Minneapolis in 1987. After growing up there all my life. It's a great picture. It looks different now. It makes me feel a little bit homesick.

#### Post a comment on this picture

This page last modified:2002-09-10

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phone cgstock.com at 612-245-4306 email us:<a href="mailto:chris@cgstock.com">chris@cgstock.com</a> Chris Gregerson, 150 Green Ave. N., New Richmond, WI 54017 USA

home | licensing | site info | web development http://www.cgstock.com/

Domains created and maintained by Chris Gregerson, chris@cgstsock.com

www.cgstock.com www.gregerson.org www.new-richmond-photos.com athena.gregerson.org

## **Exhibit B**Plaintiff's Certificate of Copyright Registration for #1756

### Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marchette Potos

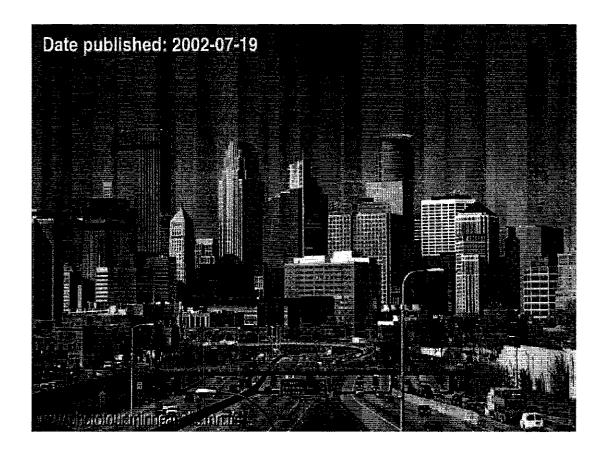
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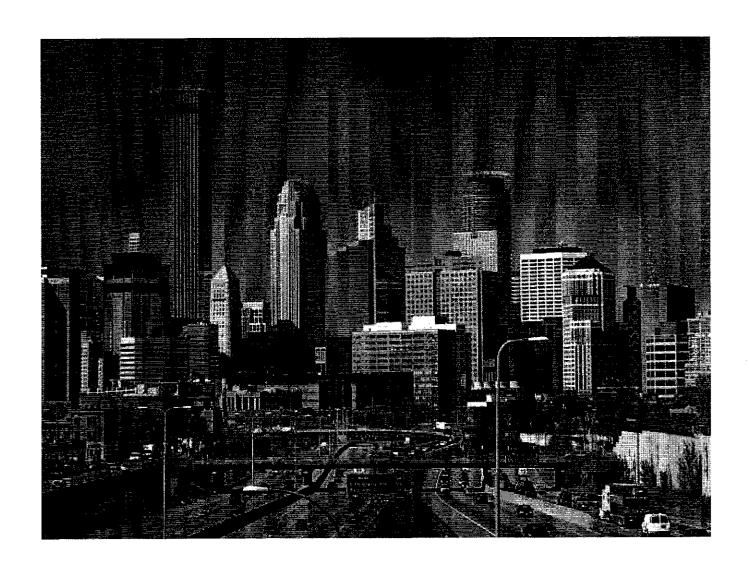
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**Exhibit C**Plaintiff's photo #1756 as published by the Defendants



### Exhibit D Plaintiff's December 1st email to Defendant

#### Source for photo on your website, "100908082718 sunny mpls.jpg"

**From:** Chris Gregerson < chris@cgstock.com> **To:** kare-webmaster@kare.gannett.com

Date: 12/01/10 11:55 am

You have had a photo on your website at the address below. www.kare11.com/assetpool/images/100908082718 sunny%20mpls.jpg

I created the photo, have a certificate of copyright registration for the photo, and it's been published on my website since 2002 here: http://www.cgstock.com/1756

Can you tell me where you obtained the photo, how you used the photo, and whether you are still using it?

Thanks,

Chris Gregerson
<a href="https://www.cgstock.com">www.cgstock.com</a> / phototour.minneapolis.mn.us
150 N. Green Ave.
New Richmond, WI 54017
612-245-4306

Exhibit E
Plaintiff's December 13th letter to Defendant

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phone 715-246-2070 / cell:612-245-4306

12/13/10

KARE 11 8811 Olson Memorial Hwy. Minneapolis, MN 55427

Re: Unauthorized use of a copyrighted photograph by Kare 11

To Whom it may Concern,

I previously contacted Kare 11 regarding the use of a Minneapolis Skyline photo on the Kare 11 website which I own the copyrights to. That email is enclosed. I have not received a reply.

The photograph appears on my photography website at the URL below (a print-out of the page is also enclosed):

http://www.cgstock.com/1756

As stated in my email, I hold a certificate of copyright registration for this photo and it was used on the Kare 11 website without my permission. I asked in my email that you inform me all the uses of the image by Kare 11/Gannet, your source for the image (where you obtained it), and if it's still being used. If you are using the image, I demand you stop.

Sincerely,

Ohris Gregerson